

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

HENRY EDWARD DIAZ, II,  
  
Plaintiff,  
  
v.  
  
CDCR, et al.,  
  
Defendants.

Case No. 1:23-cv-1378 JLT SAB (PC)

**ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS AND DENYING  
PLAINTIFF’S MOTION TO REOPEN THE  
ACTION**

(Docs. 18, 19)

Plaintiff initiated this action seeking to hold the CDCR and individual officers liable for violations of his civil rights at C-SATF State Prison. (Doc. 1.) The Court screened Plaintiff’s complaint pursuant to 28 U.S.C. § 1915A(a) and found Plaintiff failed to state a cognizable claim. (Doc. 12 at 3-9.) The Court granted Plaintiff leave to amend his complaint and informed him that if he failed to do so, the magistrate judge would recommend dismissal. (*Id.* at 10-11.) After Plaintiff failed to file an amended complaint, the Court ordered the Plaintiff to show cause why the action should not be dismissed for failure to prosecute. (Doc. 13.) Plaintiff did not respond to the Court’s order.

On January 26, 2024, the magistrate judge issued Findings and Recommendations, reiterating the prior findings that Plaintiff failed to state a claim. (Doc. 15 at 4-10.) In addition, the Court found Plaintiff failed to comply with the Court’s orders and failed to prosecute the case. (*Id.* at 10.) The magistrate judge recommended the “action be dismissed for Plaintiff’s failure to

1 comply with a court order, failure to prosecute, and failure to state a cognizable claim for relief.”  
2 (*Id.* at 12-13.) Plaintiff did not file objections to the Findings and Recommendations. The Court  
3 adopted the Findings and Recommendations in full and dismissed the action with prejudice on  
4 February 22, 2024. (Doc. 16.)

5 On October 18, 2024, Plaintiff filed a motion to reopen the action. (Doc. 18.) The  
6 magistrate judge found Plaintiff failed to “provide facts sufficient to support a finding of  
7 excusable neglect.” (Doc. 19 at 2-3.) In addition, the magistrate judge found “Plaintiff fails to  
8 satisfy any of the Rule 60(b) grounds to warrant the Court to grant relief from a judgment or  
9 order.” (*Id.* at 3.) Therefore, the magistrate judge recommended Plaintiff’s motion to reopen the  
10 action be denied. (*Id.*)

11 The Court served the Findings and Recommendations on Plaintiff and notified him that  
12 any objections were due within 30 days. (Doc. 19 at 3.) In addition, the Court advised Plaintiff  
13 that “failure to file objections within the specified time may result in the waiver of rights on  
14 appeal.” (*Id.*, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014).) Plaintiff did  
15 not file any objections, and the time to do so expired.

16 According to 28 U.S.C. § 636(b)(1), this Court performed *a de novo* review of this case.  
17 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations  
18 are supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 19 1. The Findings and Recommendations issued on October 21, 2024 (Doc. 19) are  
20 **ADOPTED** in full.
- 21 2. Plaintiff’s motion to reopen this action filed on October 18, 2024 (Doc. 18) is  
22 **DENIED**.

23  
24 IT IS SO ORDERED.

25 Dated: **November 19, 2024**

  
UNITED STATES DISTRICT JUDGE